

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WENDI R. MORSE and FELICIA KAY)
PENNINGTON individually and on)
behalf of others similarly situated,)
)
Plaintiffs,)
)
v.) CAUSE NO: 1:08-cv-1389 WTL-JMS
)
MER CORPORATION d/b/a DANCERS)
SHOWCLUB,)
)
Defendant.)

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs Wendi R. Morse and Felicia Kay Pennington (together, “Plaintiffs”), by counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure, respectfully request that this Court grant summary judgment in their favor and against Defendant MER Corporation d/b/a Dancers Showclub (“Defendant”) on their claim that Defendant violated the Fair Labor Standards Act (“FLSA”) 29 U.S.C. §201, et. seq. As Plaintiffs’ supporting brief and materials attached thereto demonstrate, there are no genuine issues of material fact in regards to Plaintiffs’ claim that Defendant misclassified them as independent contractors, as opposed to employees, and failed to pay wages to them at all times in which they worked as Entertainers. As such, judgment as a matter of law is appropriate on their FLSA claim and Plaintiffs respectfully request the same.

For the legal and factual basis supporting their Motion, Plaintiffs would direct the Court to their Brief in Support of Motion for Summary Judgment and Designation of Evidence in

Support of Plaintiffs' Motion for Summary Judgment, both of which have been filed contemporaneous to this Motion.

Respectfully submitted,

/s/ Andrew G. Jones
Andrew G. Jones
Philip J. Gibbons, Jr.
GIBBONS JONES, P.C.
Two Meridian Plaza
10401 N. Meridian St., Ste. 300
Indianapolis, Indiana 46290
Telephone: (317) 706-1100
Facsimile: (317) 616-3337
E-mail: ajones@gibbonsjones.com
pgibbons@gibbonsjones.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was been served on the 14th day of January, 2010, by way of the Court's Electronic Case Filing system upon the following counsel of record:

Richard Kammen
Dorothy Hertzel
GILROY & KAMMEN
Richard@kammenlaw.com
dorie@kammenlaw.com

/s/ Andrew G. Jones